

ORIGINAL

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

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Federal Communications Commission  
Office of Secretary

In the Matter of	)	
	)	
Amendment of Section 73.202(b)	)	MB Docket No. 04-427
Table of Allotments	)	RM-11127
FM Broadcast Stations	)	RM-11239
(Ammon and Dubois, Idaho)	)	

To: Office of the Secretary  
Attn: Assistant Chief, Audio Division  
Media Bureau

**REPLY COMMENTS**

Millcreek Broadcasting, LLC, Simmons SLC-LS, LLC, Rocky Mountain Radio Network, Inc., 3 Point Media – Coalville, LLC, and College Creek Broadcasting LLC (together, the “Joint Parties”), by their counsel, hereby submit Reply Comments pursuant to the Public Notice, Report No. 2707 (rel. May 5, 2005). The Public Notice solicited comment on a counterproposal filed in the above-captioned proceeding by Laramie Mountain Broadcasting, LLC (“LMB”). The Joint Parties also filed a counterproposal on January 24, 2005, the same date as LMB’s counterproposal was filed. However, to date, only LMB’s counterproposal has appeared on public notice.

1. The Joint Parties have previously demonstrated that no conflict remains between the various proposals in this proceeding. *See Reply Comments* of the Joint Parties (filed February 8, 2005). On January 26, 2005, the petitioner withdrew his interest in an allotment at Ammon, removing the conflict with both LMB’s counterproposal and the Joint Parties’ counterproposal. The remaining conflict between the two counterproposals themselves is

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removed if Channel 286A is allotted to Dubois instead of LMB's requested Channel 283A as the Joint Parties have demonstrated. *See Reply Comments, supra.*

2. If, for some reason, Channel 286A cannot be allotted to Dubois and the conflict between LMB's proposal and the Joint Parties' proposal remains (and assuming the Joint Parties' counterproposal is accepted into this proceeding), the Joint Parties' proposal should be favored under the Commission's allotment priorities.<sup>1</sup> LMB's proposal would advance priority (3) by providing a first local service to Dubois, Idaho (2000 U.S. Census pop. 647). In contrast, the Joint Parties' proposal would advance priority (1), the Commission's highest priority, by providing a first aural reception service to an area of 122 square kilometers containing 24 people. *See Revision of FM Assignment Policies and Procedures, supra.*

3. Even if the comparison between LMB's proposal and the Joint Parties' proposal is made under priority (3), the Joint Parties' proposal is still favored because of the considerably greater population of the communities that would gain a first local service. The Joint Parties' proposal would provide a first local service to three communities totaling 42,976 people, whereas LMB's proposal would provide a first local service to one community with a population of 647. This difference is well above the threshold of decisional significance. *See Blanchard, Louisiana and Stephens, Arkansas*, 10 FCC Rcd 9828 (1995).

4. Finally, under priority (4), the Joint Parties' proposal would result in a net gain in radio service to 3,170,493 people.

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<sup>1</sup> The FM allotment priorities are as follows: (1) First fulltime aural service, (2) Second fulltime aural service, (3) First local service, and (4) Other public interest matters. Co-equal weight is given to Priorities (2) and (3). *See Revision of FM Assignment Policies and Procedures*, 90 FCC 2d 88 (1982).

5. The Joint Parties are unaware of any infirmity in their counterproposal which would prevent it from being accepted and processed in this proceeding. Accordingly, the Joint Parties urge the Commission to issue a further public notice and then grant their counterproposal.

Respectfully submitted,

MILLCREEK BROADCASTING, LLC

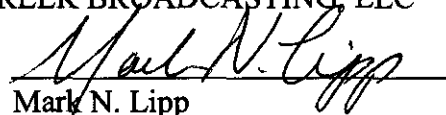
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May 20, 2005

**CERTIFICATE OF SERVICE**

I, Giselle Abreu, an executive secretary in the law firm of Vinson & Elkins, do hereby certify that I have on this 20th day of May, 2005, caused to be mailed by first class mail, postage prepaid, copies of the foregoing "**Reply Comments**" to the following:

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